

Leon McKinney: The *Register* Goes Partisan in the Dornan/Sanchez Race

CALIFORNIA★POLITICAL REVIEW

JANUARY/FEBRUARY 1997 • VOLUME 8 • NUMBER 1 • \$4.50

Arnold Steinberg
Answers
Bustamante's Crude Politics

Tim Ferguson
Examines
The New Public Journalism

Phillip E. Johnson
Opens
Darwin's Black Box

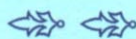
What went Wrong?



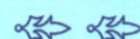
And where to from here?

**CPR's panel of veteran political observers discuss why California
Republicans fared so much worse than predicted**

**Tim Ferguson, John Lewis, Ray Haynes, Brian Kennedy,
Mike Antonucci, and the Editors**



Introducing in this Issue



2 New Regular Correspondents

Andrew J. Peterson

on Education

Lorelei Kinder

at The Front Line



The State Supreme Court Rehears *Academy of Pedagogues v. Jangiro*

THE COURT'S WAR ON THE FAMILY



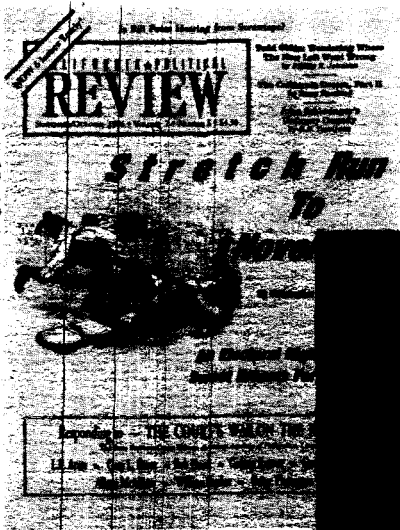
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The Jaws of Victory

Mark S. Pollan

The View From
The Bench

An exclusive interview with
The Honorable Ronald M. Geis

Californians Prepare to Reform Their Merit-Blind Gov
by Terry Eastland



An Opening for Common Sense

*"The beginning of
political wisdom is the
recognition that
liberalism is at the end
of its intellectual tether."*

— Irving Kristol

What used to be
called "liberalism"
has degenerated into
reflexive attacks on everything from the family car to
free speech to the Boy Scouts — a movement without
a mind and with nowhere to lead. Common sense is
the cure — find it in the pages of *California Political
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— William A. Rusher

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— Bruce Herschensohn

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JANUARY / FEBRUARY 1997 • VOLUME 8 • NUMBER 1

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CORRESPONDENCE

Smoggy Conciseness

It was a joy to receive my copy of *California Political Review* with a note from the California Republican Assembly introducing this magazine.

Of the excellent articles, I found Leon McKinney's "Smog Check II" (*CPR*, November/December 1996) to be the most concise synopsis of this massive topic. Not only was it well done as regards content of information, but done with humor: "Besides the fun of pushing people around, the law creates"

Hurrah to Leon and *California Political Review*, which we will recommend to our membership.

Penny Ferguson
President, San Mateo County
Republican Assembly
Pacifica

Calling Doctor Welby

"This election," your editorial advises, "is most importantly a measure of the moral state of the American people." ("From Liberal to Liar," *CPR*, November/December 1996) Given the outcome, I'd have to say the patient should be considered for life-support.

James Fitzgerald
San Bernardino

Propositionally Illuminating

Your "Election Eve" analysis (*CPR*, November/December 1996) was definitely useful in helping me vote intelligently, especially the explanations of the propositions. Before reading *CPR*, despite the ballot pamphlet and astronomical number of commercials for or

against many of them, I was not completely sure of their implications. As it turned out in the election, many of them went the way I had hoped they would. Thanks for that.

And did California voters outside the Central Valley hear about the billboards along Highway 99 that looked like a sheet of ruled schoolpaper with holes down the left side? Lined up down the sheet, it said:

Adios
Babbitt
Clinton
Dooley.

Well, maybe next time!

Cathy Dickerson
Bakersfield

I'm a Quitter, Not a Republican

A great magazine! But count me out. I'm a conservative, not a Republican. With Proposition 209 now relegated to the judicial netherlands alongside Proposition 187, my faith in our democracy is all but gone. I think we are all a day late and a dollar short.

Good luck with your work, but I think it is really just a grand effort in futility.

Mike Fox
Fremont

Now there's the spirit that tamed the West. Too bad Mr. Fox wasn't around to counsel those poor fools: Columbus, the Pilgrims, Washington at Valley Forge — he might have saved them all a lot of trouble. It's a pleasure to count you out, Mr. Fox.

— Editor

SACRAMENTO SPECTATOR

The blame game is going full blast up here amongst GOP operatives and wanna-be's, and in your *Spectator's* view for all the wrong reasons. It is important that we find out what went wrong, why it went wrong, and how to avoid a repetition in the future.

Unfortunately, these questions seem to be secondary in many people's minds to settling old political scores and pointing fingers at political leaders while they are seemingly "down" and unlikely to be able to respond.

Let me be clear. I'm not defending the conduct of the campaigns of either the Assembly or Senate GOP leadership. The bald fact is that both houses lost seats when they should have gained seats. Mistakes in strategy, tactics, and just plain old common sense were evident in both efforts.

Yet that being said, Curt Pringle and his troops came within 5,000 votes or so of maintaining control of the Assembly. And while the state Senate losses were by larger margins, you can

make the case that had just one or two things gone differently, Rob Hurtt *et al.* would be sitting with 17 or 18 seats instead of 16. My point is that name calling and finger pointing is not going to get us where we need to go — and that is to a thorough, painstaking examination of why the GOP didn't do better. The examination should spare nobody because of their position or power or friendship. But likewise that examination should not pile-on



leaders for the sake of settling other, unrelated scores.

The one excuse being bandied about that your *Spectator* just doesn't buy is that "Bob Dole did it." This line of reasoning places the blame for our losses on the networks' call of the presidential election at 6 p.m. California time and the early release of Dole's concession statement shortly thereafter. Sorry folks, that doesn't wash. The GOP picked up a U.S. Senate

seat in Oregon, captured control of the Assembly in Washington, and made legislative gains in Alaska and Hawaii. Bob Dole didn't do it in any of those other states, and he didn't do it here in California either.

Several factors however do need to be looked at in great detail. Did the decision of the California GOP to concentrate absentee ballot programs on "low propensity" voters prove effective? Have Republican campaign consultants as a group neglected the importance of election day activity? Is it possible for the GOP to develop an interest group as reliable for bodies and cash as the unions are for the Democrats? Did the California GOP's spending of \$2 million in favor of Proposition 209 have its desired effect? Or would it have been better to give the cash directly to campaigns or targeted GOTV? Do the Democrats have a method of staying in touch with their absentee voters that we need to copy?

These and other questions need to be answered — in a "let the chips fall where they may" method. They hold the key to future GOP successes. But the answers should be found and delivered in a professional and non-combative manner. 1998 ought to be a pretty good Republican year. The poobahs and major domos of the California GOP should start now to make sure that it is.

—A.P.C.

Who's in Charge of Johnny's Personality?

Bring on your arguments, your briefs, your opinions, you

A N D R E W J . P E T E R S O N

ESTABLISHMENT CRITICISM of home schooling these days tends to avoid — with good reason — questioning its academic quality. On average, home-schooled students score at the 77th percentile on standardized tests such as the Iowa Tests of Basic Skills according to the Home School Legal Defense Association. Instead, the critique more usually hits a supposed failure to “socialize” the students — to teach them how to interact in society.

The December issue of the American Psychological Association's publication *Monitor*, for instance, features a report by *Monitor* staff reporter Bridget Murray that points to a new “wariness” among psychologists about parent-directed home schooling. After first listing several benefits home schooling provides, Murray turns to concerns raised by a small number of professional psychologists. There is, Murray writes, “an enormous need for outcomes research” in the area of “social development.” Talking with psychologists, Murray reports, elicits such questions as whether home-schoolers are “trying to protect children from becoming adults?” Will their children be misfits with mainstream life when they are older? Will they be sheltered completely from diversity in our culture? Will they go against what society values as proper behavior? (We should all be reaching for our Politically Correct dictionaries about now.)

It isn't as though APA believes cultural norms should set every standard for child rearing. On the

contrary, the December *Monitor* also includes articles titled: “Raising children to resist violence: What you can do” and “What makes kids care: Teaching gentleness in a violent world.” In addition, in another publication on its Web site (“Answers to your questions about sexual orientation and homosexuality”), the APA does not hesitate to argue, with little regard to society's conventions and traditions, that homosexuality is pre-determined, unchangeable, and healthy. But when it comes to home schoolers, suddenly APA registers deep worries about the possibility of failure to conform with societal norms.

This psychologists' concern for shaping our children's social development did not appear out of the blue; it has a long history. Turn-of-the-century psychologists were notorious for writing novels sketching Utopian schemes controlled by “professionals” in which family life would be replaced by social engineering and traditional religion run out of town. The discipline has a long tradition of using the public schools to direct personality development quite apart from the academic goals the public assume are pursued.

In 1983, noted UCLA education historian Professor Sol Cohen wrote an article published in the *History of Education Quarterly* that recounted the “mental hygiene movement” that began with small committees of intellectuals and professionals during World War I. John Dewey, who at the time was considered the world's foremost educational psychologist, was a guiding influence and leader of the movement. In the 1920s, these individuals established the new child guidance clinics and



Andrew J. Peterson, Ph.D., California Political Review's education issues correspondent, is chief information officer at Fieldstead and Company of Irvine.

The Front Line

Lorelei Kinder

Since the election, I have participated in many meetings of conservative volunteer leaders and am struck by the participants' dedication and commitment to our cause. In December, for instance, conservative activists from around the country gathered in Las Vegas to launch a communications network, a policy panel, and an organizational structure to articulate a clear, concise, unified conservative message. The underlying theme in all these meetings has been: How can we help to build the bandwagon to revive the now dormant "grassroots"?

The term "grassroots" describes that army of volunteers who perform all the unglamorous tasks in a campaign. They walk, ring doorbells, and operate phone banks. They attend the rallies, open their homes to neighbors for political meetings, and make sure that their neighborhoods are peppered with lawn signs. And they are entrusted with the most important task of all — getting potential voters to the polls.

In 1996 we found, much to many a defeated candidate's dismay, that we had been negligent in caring for, and listening to, the grassroots. The grass was sparse and a pale shade of green last fall. Definite drought conditions! To make up for the people deficit, we

turned (as we have in times past) to professional telemarketers who blanketed our state with 20-second "sound bite" calls.

In political parlance the bandwagon (message delivery system) is called the "air game." The grassroots are the key element of the "ground game." When both are working cohesively together the result is a very effective winning campaign. Two of the most outstanding in 1996 were the election of Bruce McPherson to the state Senate in a



31.7 percent Republican District and the re-election of Peter Frusetta to the Assembly in a 32.7 percent Republican District.

When you lose the California Assembly by 2000 votes in spite of abundant funding and skilled management you can definitely make the case that one more doorbell ringer in each precinct would have changed the outcome of the election. But "grassroots" do not develop with the wave of a magic wand. They need tending and nurturing. They need to be cared for and lis-

tened to if they are going to become a formidable army capable of delivering election victories.

Many campaign professionals believe raising a volunteer army is more difficult (and sometimes more emotionally debilitating) than raising dollars. Dollars let you pay people to perform the tasks volunteers performed. But paid workers do not care about message. (In fact, they don't care whether we win or lose the election!) The difference between volunteers and mercenaries can be likened to a cup of Starbucks coffee versus "ersatz."

When the "grassroots" are dormant (as they were in 1996), the campaigns lose their most effective sales force. "Grassroots" only thrive when there is a message they can embrace, a bandwagon they can ride on. And, we have had some glorious bandwagons in this state: Ronald Reagan, Howard Jarvis and Proposition 13, the outpouring of support for the recall of Rose Bird, and yes, the people-generated victory of Proposition 187.

Nineteen-ninety-seven is already here; election '98 is a short 22 months away. As long as we continue to meet and work together; as long as we continue to communicate, there is every reason to believe we will develop our message and be able to generate people participation — that we will build a bandwagon. After all, united we win. It is only when we factionalize ourselves that we lose.

CPR

their ideas took hold in teacher education textbooks in the '30s. Personality development became a key priority for public education.

Just as physical hygiene had proven crucial for the urban public health crises of the late 1800s, they argued, so should a mental hygiene program of psychoanalytic and behaviorist psychologies be implemented to prevent schizophrenia and juvenile delinquency. In 1950 the summary statement of a White House Conference on Children announced that the public education system was indeed the *primary* agent for socialization of the nation's children. John Dewey's dream that *social development* should replace academics as the dominant concern of American education had arrived.

AS A graduate student at U. C. Berkeley in the mid-1970s, I was the beneficiary of a National Institute of Mental Health fellowship for the study of "mental health consultation in the public schools." Seemed like a good idea at the time, but there were two problems. First, theoretical textbooks notwithstanding, I found that no specific, measureable, agreed-upon, realistic, timed, operational definition of mental health existed. Second, every minority group on campus had developed its own "wariness" about how "the man" would interpret mental health and what measures would be used to ensure that everybody was "helped." Thus, elite professionals were attempting to impose *their* idea of mental health on the rest of us without either defining what they meant by that phrase or even asking the opinions of (never mind showing any respect for) those whose mental health they proposed to achieve.

Nothing has changed for either the engineers or the engineered in the 20 years since I left Cal except that now a two decade-long record of failed programs for social development wasting billions of dollars has been accumulated. A precise summation

of it all was provided by La Jolla psychologist Dr. William Coulson, partner of the late Carl Rogers and former proponent of the principles of the mental hygiene movement: "What we helped achieve was an educational system which brought kids down, rather than up."

In one sense the psychologists are right: instruction involves more than academics. It is inescapably ethical, which is what all the concern over "socialization" is about. The question is, whose ethics will define proper "socialization"? Many home schoolers and private Christian schools want their children's "socialization" to be guided by the Scriptures — and they are no more interested than APA is in tailoring their beliefs to fit the culture's current dictates. One thing the Scriptures say is that *primary responsibility* for education-socialization resides with parents, with the church adding some oversight (to insure the parents do not neglect their children's religious instruction) and the state (to insure the parents commit no crimes against their children). Even Bridget Murray, in her *Monitor* article, cites survey research showing parental disengagement correlates strongly with low academic achievement and drug and alcohol abuse by teens.

For almost two centuries, American education achieved great success without tax-funding or compulsory attendance. Parents, to borrow contemporary phrasing, were empowered to fulfill their God-given destiny of directing the "socialization" of the next generation. Besides home schooling, a variety of

school reform ideas have been proposed and, to varying degrees, are being tested around the country: alternative unions, charter schools, public vouchers, private scholarships, proprietary schools, religious programs — all innovative ways to cope with the largely acknowledged failure of government (*i.e.*, public) education. The wisdom they all share is knowing that education improves in direct relation to the degree to which parents are in charge. CPR

Politics

A trade in which the sly outweigh the wise —
For Wisdom is a woman loved by few;
Whose beauty's known to rare far-searching eyes
And faith-filled hearts demanding what is true.
But shifty, slick and facile minds will win
The public's heart and empty, smiling eyes
Their comradeship for they too sin and
envy cunning contracts with the Father of Lies.

Remember this my darlings; you'll do well
When plotting how to guarantee success.
You have one soul to sell to Heaven or Hell
And just one chance to rise above the rest.
Passion and Death earn from God an Emphyrean Tower;
Only the Devil will give you the Summit Power.

— Richard Morgan

Winning the Battle, Losing the War

Lerach was blown out of the water — great; but look who re-took control of Assembly Judiciary in the meantime

M A R K S . P U L L I A M

CALIFORNIA'S SUPREME irony from the 1996 election: despite a blitzkrieg of anti-lawyer ads against Proposition 211, the so-called Lerach initiative, combined with virtually unanimous editorial opposition to the measure, and the formation of an unprecedented coalition of business and professional firms both within and outside the state united to fight them, the trial lawyers ended up back in charge of the Assembly Judiciary Committee. *The Los Angeles Daily Journal's* Tom Dresslar presciently observed that the election "seems likely to bring a return of the salad days for the [trial lawyers], a revival of the dominance the plaintiffs' bar enjoyed until 1994, when Republicans gained control of the Assembly." Had some of the \$35 million spent running up the score against the nearly lifeless campaign for 211 been used to support incumbent Republicans in the Assembly, or to capture open seats like the one vacated by Dede Alpert in the 78th Assembly District in San Diego, Bill Morrow might still be chairman of the Assembly Judiciary Committee. It makes one wonder if 211 weren't a ruse by the plaintiffs' bar — a political head fake — to draw the finite resources businesses are willing to devote to politics away from legislative races, where the trial lawyers planned quietly to bankroll Democrats in key races. If that was the strategy, it worked beautifully.

Not content with the spoils actually won at the ballot box, the Left is also hard at work trying to reverse the election's most important voter decision their side lost: Proposition 209. Following the strategy that proved so effective against Proposition 187 two years ago, the ACLU and other litigants were standing in line in federal court to file their class action lawsuits the day after the election, before the votes had even been finally tallied. This time, the ACLU chose San

Francisco instead of Los Angeles, hoping — successfully, it turned out — to have their suit assigned to a liberal Carter appointee, Judge Thelton E. Henderson, who was already presiding over an unrelated action involving San Francisco's minority preference ordinance. Over the protest of Governor Wilson — who is a defendant in the ACLU suit — the Proposition 209 litigation was reassigned from Judge Vaughn Walker, a conservative Bush appointee, to Henderson, a former "civil rights" lawyer. The die was cast.

On November 27, Judge Henderson issued a temporary restraining order against Proposition 209, finding that there is a "strong probability" that its opponents will be able to establish that it is unconstitutional. The ACLU was jubilant, denouncing CCRI as "the most radical attack on civil rights legislation in the history of the country." The reader may be wondering how a measure that bans discrimination based on race and gender — practices usually understood themselves to violate the Constitution — could possibly be deemed to be unconstitutional. The short answer is that the body of judge-made constitutional law has become totally devoid of logic and common sense.

THE LONG answer is that the ACLU is relying on a body of Supreme Court cases holding that a state violates the equal protection clause of the 14th amendment when it allows a state-wide majority to restrict the rights of minorities to enact protective measures on the local level, such as a 1982 decision involving a Washington initiative that prohibited local school districts from busing students to achieve racial balance. By a 5-4 vote, the Supreme Court struck down the initiative as a violation of equal protection. The problem with the ACLU's reliance on this case is that busing is neither prohibited by existing law nor unconstitutional while the race and gender discrimination that Proposition

Mark S. Pulliam, CPR's legal issues correspondent, is an attorney in private practice in San Diego. His e-mail address is mpulliam@lw.com.



209 prohibits is both already prohibited *and* unconstitutional. A law requiring race and sex neutrality — requiring equal treatment, without regard to race or sex — cannot possibly deny equal protection. This is borne out by another Supreme Court decision, *Crawford v. L.A. School District*, issued by an 8-1 margin the same day as the Washington busing decision. In *Crawford*, the Court upheld California's Proposition 1, which required state courts to apply the state constitution in the same way as the federal constitution in busing cases, in effect overturning activist court rulings imposing massive intra-district busing on Los Angeles and other cities. The Court in *Crawford* specifically held that "the Equal Protection Clause is not violated by the mere repeal of race-related legislation or policies that were not required by the Federal Constitution in the first place." Only Thurgood Marshall dissented in *Crawford*, which fits 209 like a glove.

Thus, Judge Henderson's TRO is almost certain to be overturned eventually on appeal, either by the Ninth Circuit or the U.S. Supreme Court. Unfortunately, this could take years. It is fundamentally inconsistent with democracy for a single, unelected federal judge to be able to enjoin initiatives reflecting the will of millions of voters. Indeed, the current state of judicial usurpation of politics calls into question whether we can accurately call ourselves a democracy. A recent symposium on judicial activism published in the journal *First Things* suggested that "[t]he subject before us is the end of democracy." If this sounds like mere hyperbole, consider that most provisions of Proposition 187 remain frozen at the behest of a single federal judge. In light of welfare reforms passed by the 104th Congress, Judge Pfaelzer allowed the State of California to move forward with a cutoff of prenatal care to illegal aliens, at a savings of \$69 million a year, since this action was required by federal law. On November 26, however, a state court judge in San Francisco issued a preliminary injunction forbidding California to implement even that much of the law. Judge William Cahill said, in effect, "What's the hurry?" "The mere enactment of a federal law does not

automatically create an emergency here in California," he wrote. After all, it's only the taxpayers' money. If Cahill were an elected politician, instead of an appointed one wearing black robes, he'd be recalled for this display of arrogance. For a California judge, however, it's business as usual. Time to wake up and realize we are being governed by a cadre of radical tyrants.

AFTER OPERATING for years in total secrecy, quietly assassinating approximately 1,250 judicial nominees without public debate, the State Bar's Judicial Nominees Evaluation (JNE or Jenny) Commission went too far by trying to veto Governor Pete Wilson's nomination of Janice Rogers Brown to the California Supreme Court with an "unqualified" rating, previously the kiss of death. The governor *knew* the rating was incorrect because Brown had worked for him as Legal Affairs Secretary, and he had earlier appointed her without controversy to the Court of Appeal. For the first time ever, Governor Wilson overrode JNE's veto — exercised in one of four nominations — and dealt the credibility of this Star Chamber body a severe blow. JNE responded by leaking confidential information about Brown to the media, and JNE's chair disclosed additional confidential information at Brown's confirmation hearing. This backfired badly.

In the resulting furor, retired Supreme Court Justice Armand Arabian, California Republican Party Treasurer Shawn Steel, Attorney General Dan Lungren, and even former Governor George Deukmejian have called for abolition of the JNE Commission. Ever eager to appease California's liberal legal establishment (no doubt dreaming of joining Anthony Kennedy some day on the U.S. Supreme Court, and being heralded as a fellow "thoughtful moderate"), Chief Justice Ron George has publicly defended the JNE Commission, stating that "[i]t performs a useful function." Only if you call giving liberal activists such as MALDEF official Arturo Vargas (JNE's current vice-chair) the ability to blackball the Governor's judicial appointments a "useful function." Wilson appointment and promotion of Ron George is rapidly proving to be an even bigger mistake than George Deukmejian's appointment of Joyce Kennard.

In a racially-charged publicity stunt that evoked scenes from Tom Wolfe's *The Bonfire of the Vanities*, Representative Maxine Waters (newly-elected chair of the Congressional Black Caucus), and the aforementioned Sheila Kuehl (showing the stuff that got her named Legislator of the Year) held a news conference in front of the L.A. Superior Courthouse downtown

on November 25 to denounce as racist Judge Malcolm Mackey, who courageously overturned ridiculous jury verdicts against Hughes Aircraft Company (\$89 million in an employment discrimination case) and Pitney Bowes (more than \$11 million for “verbal abuse” by co-workers). The controversy, you see, arises from the fact that the plaintiffs in these cases were black. And we all know that the only explanation for blacks to lose in the legal system is racism, because it is an unspoken assumption that blacks are always victims and that all corporate employers discriminate. Thus, all claims of discrimination are meritorious, and anyone who disagrees, such as Judge Mackey, is engaged in discrimination also. Q.E.D.

Therefore, goes the reasoning of Waters/Kuehl, setting aside the juries’ verdicts in these cases “undermin[es] the whole area of discrimination law. These judges and these companies not only don’t get it. They apparently don’t care that they don’t get it.” (Both cases are on appeal. It has not been established that Judge Mackey acted incorrectly in either case.)

The legislators also announced that they will conduct “informational hearings” (*i.e.*, a show trial) within 60 days on whether the ability of judges to overturn verdicts in discrimination cases should be restricted. Let there be no confusion about the motivation of racial ambulance chasers such as Waters &

Kuehl (or Al Sharpton, Jesse Jackson, Kweise Mfumi, *et al.*) in these types of spectacles. In this case, in declining order of priority is (1) shameless self-promotion, (2) intimidating judges who might follow the law in future cases, if that means a black litigant would lose, and (3) demonizing Judge Mackey for overturning plainly irrational jury verdicts, and maybe gratuitously attacking the companies involved (plus Texaco, for good measure). These tactics are an insult to common sense and reason. For example, Waters took offense to Judge Mackey’s statement in his Pitney Bowes decision that “Our ancestors came across the plains in covered wagons; they were tough. Minorities need to be tough in the workplace — they can’t react to every comment.” Waters’ objection is that “His ancestors may have come across the plains in wagons. Mine came across the sea in chains. How tough do we have to be?”

HERE’S A rhetorical question: When conservative legislators criticized the Supreme Court’s decision in the “three strikes” case, liberal judges such as Arthur Gilbert quickly condemned what they called a threat to judicial independence. Is anyone willing to hold their breath awaiting a similar response from Judge Gilbert this time?

CPR

THE MIDNIGHT ECONOMIST

From Sloppy Language to Dumb Policy

Thinking the Thought and Talking the Talk

W I L L I A M R . A L L E N

PRESUMABLY, JOURNALISTS, along with teaching scholars, are in the thought-and-words business, with thought preferably preceding (or at least accompanying) the words. But few have characterized news broadcasters as being excessively preoccupied with thought, and such substantive content as they deliver is commonly presented with language of limited elegance.

Still, a network Los Angeles television station has insisted on demonstrating its concern, not with sophisti-

cation of language, to be sure, but with the social purity of remarks made by its pampered hirelings *off the air*.

According to a report by a major newspaper, one of the Star Performers on the 6 o’clock news became dissatisfied with the quality of the language in part of the script he had to read. The script had been prepared by a Cuban-American who had been hired from a Miami

William R. Allen is an economist at UCLA that, you know, thinks it cool to use language good.

Spanish-language station. After the broadcast, the Star Performer allowed as how the script-writer knew English only as a second language. Well!

There are various obvious questions concerning all this, including: How did word of this internal matter get out of the station and into the scandal-mongering hands of the newspaper? If the Star Performer was justified in his assessment of the script, was he not justified in complaining within the corporate family about the quality of the words he had to deliver? Why, indeed, was the underling hired in the first place to produce a product she was ill-equipped to produce? (She was later fired, purportedly for reasons unrelated to this incident. Evidently, some station administrator greatly goofed in initially adding her to the staff.) Might the Staff Performer show up at the station early enough to go over the script before air time?

SUCH OBVIOUS questions were not obvious to the station management. Instead, it was determined that non-public voicing of professional evaluation was a manifestation of ethnic, if not also sexual, offensiveness. So the Star Performer publicly groveled, and the entire staff was directed to partake of "diversity training," as the station director apologized profusely to all the world.

Actually, as suggested in a letter-to-the-editor of the

The National Endowment for Anti-Art

The National Endowment for the Arts exists
to guarantee production of obscenity.

People will pay for decent music, song,
and painting, sculpture, dance, and poetry.

True art, which imitates divine perfection,
has been endowed with talents from eternity;
it satisfies deep hunger in the human heart
and divines the soul's reward and ultimate destiny.

Americans do feel — some more, some less —
art *is* essential to a life that's full.

And they need to censor use of public funds
to create not what is lewd but what is beautiful.

An artist's skill and taste create, according to
aesthetic principles,
work in a spirit of love, not one of hate
and love desires sharing what is good and true and
beautiful,
not ugliness expressive of the artist's moral state.

— Richard Morgan

newspaper, the complaint of the Star Performer not only was probably well founded, but should have been aimed at a much more inclusive target. Culprits in mangling the English language are not confined to Cuban-Americans recruited from Spanish-language television stations. Journalists who were born in this country effectively vie with one another in desecrating their native tongue. Painfully, the point is readily illustrated:

- "The man that came to dinner" For some, "who" is a sound reserved for owls.

- "Like you like it." What did Shakespeare know? He's dead now, anyway.

- "I only sleep with the best." Very well, if you deem sleeping to be your most fulfilling activity when with the best.

- "I feel badly about the downtrodden." Then, try to do a better job of feeling.

- "Doing good good." "Well" is to mean only the opposite of "sick."

- For some of us, "lie" and "lying" are not confined to the telling of untruths. "The drunk was laying in the street" — laying asphalt? or an egg? or a brick? Even the august *New York Times* can come up with the headline: "Watergate's Shadow Lays Across the Land."

- "Between you and I" Between you and me, this is primitive, vulgar illiteracy.

So why is an economist, a dreary soul, at best, concerned with the basic niceties of language? For one thing, he still has hopes of being considered in civilized circles as one of the boys. But the concern goes beyond acceptance by the sophisticated, beyond even aesthetic appreciation of coherent structure and grace and maintenance of cultivated criteria and standards in how we generally carry ourselves in a world which is grown largely crude and coarse.

LANGUAGE IS the mechanism of personal thought and interpersonal communication. The universe of economic analysis and its fruitful use is daunting enough when language is kept clean and clear. It does not help to handicap our deductions and expositions by confusing scarcity with shortage, demand with quantity demanded, preferences with "needs," costs with inconveniences, efficiency with equity, relative prices with the price level, real income with nominal income, reduction in absolute size of a measure with reduction in the rate of increase, assumption with presumption, statics with dynamics, logical consistency with empirical applicability.

Sloppy language conduces sloppy thought, sloppy thought yields lousy analysis, and lousy analysis gives rise to ineffectual processes and dumb policies, which make us poorer and less free than we need to be. **CFR**

Facts Covered 'from the ground up'

*Agenda-denying journalists team up with 'ordinary folk'
to make 'Public' Journalism*

T I M W . F E R G U S O N

WITHIN THE press biz, there's growing debate about what's called public journalism or civic journalism. In a nutshell, this approach to news coverage holds that a paper should get beyond the noise that interest groups and publicity-hound politicians usually use to garner attention, and focus attention instead on issues of true public importance. Rather than be distracted by self-serving conflict or idle sensation, the press should pro-actively discern what matters to readers and put those issues front and center for decision makers to deal with. This will help to reduce people's anger and cynicism.

Sounds good enough, and several major papers, including the *San Jose Mercury* and the *Orange County Register*, have led the charge thus to redefine journalism. To a degree, most other decent-sized dailies have gone along. That's why you see funny titles these days like "Public Editor." (What are the other editors, then?) Helping to push the process has been the Pew Charitable Trusts, one of those bounties of bequeathed business wealth now in the hands of liberal do-gooders. Pew gives grants to news organizations that practice this finer art.

It must have surprised the saintly sorts in October to have a front page article in the *Wall Street Journal* — produced by a news department that is hardly a den of reactionary conservatism — call this do-goodism into question. (More recently, the *New Republic* magazine did so as well in a cover article.) Taking umbrage at the *Journal's* askance glance was none other than Ellen Hume, formerly one of the paper's most liberal reporters (she was lead attack dog on Dan Quayle in 1988) and now head of the Democracy Project, an arm of the public-journalism crusade. "Unfortunately," she lectured her erstwhile colleagues in a letter to the editor, "you remain stuck in the old formulas, interviewing only expert insiders and not the citizens themselves;

covering hypotheticals and opinions from the top down rather than facts from the ground up."

And how is that Hume's allies determine facts "from the ground up"? Through a combination of newsroom high-mindedness and focus-group wisdom, it would appear. It's hard to know what's worse: A bunch of agenda-denying journalists framing the questions or a roundup of ill-informed but opinionated "ordinary" folk giving the answers. To appreciate the significance of this alternative method of presenting news, consider the difference in presidential "debates" between those in which provocative reporters pose the questions and those where a supposed cross-section of the community asks them, as in San Diego this fall. The latter are loaded with numbskull queries along the lines of "Why can't you put aside ideological bickering and solve the problems of education (or crime, or homelessness, or whatever)?" The implications are that 1) philosophical disagreement is irrelevant and 2) the state ought to have a plan for attacking every evil or imperfection in society. Either condition happens to be a plus for the Democrat Party when it must deal with a basically conservative electorate.

At least one candidate this past election — Jesse Helms in North Carolina — refused to play along with this media manipulation. That was part of the reason he was crowing about the long faces at the state's editorial boards as he gave his victory speech.

✦ ✦ ✦

Hard to say whether it was somebody's idea of civic journalism or political editor-turned-editorial page editor-turned city editor Jerry Roberts's take, but the *San Francisco Chronicle* seemed to have a story a day on the horrors of CCRI as Election Day neared. Of course, the *Chron* was all over Proposition 209 in the (designated) opinion section as well. The ardent opposition of the Bay Area media may offer some explanation for why the CCRI fared so poorly in Silicon Valley, where

Tim W. Ferguson is California Political Review's press critic.

you'd think a meritocratic initiative would do well.

* * *

Of all the things Willie Brown has done over the years, who'd have thought it would be offhand criticism of a pro football player that would finally embroil Da Mayor in a negative story "with legs"? It occurred when Brown lambasted 49er quarterback Elvis Grbac's performance, only to find out the QB was distracted by his infant son's spina bifida. The story lingered for a few weeks. The normally lapdog *Chronicle* took note in a page one story that "the fallout might even be enough for an opposition to Brown to finally raise its head above the battlements and speak out." Within one paragraph, however, the *Chron* was back to form: "But the resilient Brown ... has been there before and always bounced back. Old friends and chroniclers [Freudian slip] of his long career expect him to do it again this time ..." It then quoted John Burton on what a gentleman Brown is. Gag and double gag.

* * *

The drift toward moderation of the *Los Angeles Times* editorial page, as reflected in the fact it actually opposed a local college bond issue as well as the minimum wage hike, the top income-bracket tax increase, and the HMO controls, didn't go unnoticed. The lefty *LA Weekly* suggested the *Times* move its base of operations to Orange County or — even worse! — Kern County, where it would find kindred souls. Don't worry, though: the *Times* was true to its modern Diversity god in repeatedly pounding Proposition 209.

* * *

On that score, the *Weekly* also brought news that a punchy *Times* news series on the 18th Street gang terrorizing wide sections of the city (and other urban areas) had upset the Diversity Caucus. The series was remarkable for its lack of sociological excuses for the beasts it portrayed. This prompted Vicki Torres, a reporter for the *Times* business section, to post an internal satire that criticized the project by way of a Swifitan proposal that "anyone born to a family earning less than \$25,000 yearly should be killed at birth. Otherwise, they become hopeless gang members and there's nothing we can do about it." That kind of political attitude in the *Times* in recent years has left countless subscribers with one very sure way to do something about it, which is partly why circulation was in danger of dipping below one million earlier this year.

* * *

Bob Dornan's defeat provided a virtual feasting ground for the media, both locally and in Washington. You no doubt read plenty about Loretta Sanchez's triumphal arrival in the nation's capital. If you saw the *New York Observer* you also knew that the celebration of Loretta's Hope extended to the Big Apple, where the new political cover girl mugged with actress Kathleen Turner at a People for the American Way fete. B-1 never had it so fine. How ya gonna keep her down in Garden Grove now?

* * *

Loretta's good press was second only to that accorded the electric car debuted by GM. Nearly every newspaper gave it plenty of free ad space, even though the first-day customers consisted mostly of Hollywood celebs with 10 other cars to drive whenever they need go farther than the hair salon.

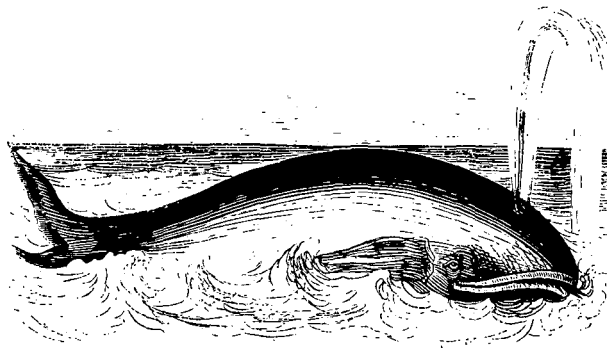
* * *

One guy still not getting a break was Pete Wilson. When he resisted the entreaties of The Sisterhood to appoint an anti-airport screamer to the Orange County Board of Supervisors, the selection of her male city council colleague instead brought this "news" coverage from the *Orange County Register*: "The Wilson-over-Bates appointment further alienates Republican women who have become estranged from the GOP. The Wilson appointment was in sharp contrast to President Clinton's naming Thursday of Ambassador Madeleine K. Albright as his next secretary of state, [Judy] Rosener said." Rosener, of the UC Irvine faculty, is a favored quote for feminist reporters needing someone to make their point for them.

* * *

And finally, on the subject of *Register* (di)staff, the new editorial-pages editor is Cathy Taylor, formerly the business editor. Perhaps because of her closeness to the county's corporate elite while in that earlier role, she wrote a column endorsing the bankruptcy bailout tax increase that went down in flames at the polls (and which, it turns out, was unnecessary). Thus she brings an unusual pedigree to heading the libertarian *Register* edit page, which of course opposed that tax hike and every other one that's come down the pike. Taylor enjoys goodwill in her new surroundings (as one editorial holdover said, "She was never part of the aura of antipathy you feel on the third [news] floor") but it will be a neat trick to marry the warring cultures of California's No. 3 paper. Stay tuned.

CPR



CRUDE POLITICAL PAYBACK...

....comes to the Coastal Commission:
Bustamante's hasty removal of a property rights advocate.

*Just three days after being elected Assembly Speaker,
"moderate" Democrat Cruz Bustamante fired Coastal
Commissioner Arnold Steinberg with the following letter:*

December 5, 1996

Dear Mr. Steinberg:

On behalf of the people of the state of California, and as the newly-elected Speaker of the California State Assembly, I take this opportunity to thank you for serving as an appointee of former Assembly Speaker Curt Pringle to the California Coastal Commission.

After discussions with a great number of people, I have decided to exercise the power given to me by the Public Resources Code and put my own stamp on the future of the Coastal Commission. Therefore, your services as a commission member no longer will be required, and your commission appointment is hereby terminated, effective immediately.

Again, I appreciate your service to the state.

Sincerely,

Cruz M. Bustamante

Speaker of the State Assembly

To which Mr. Steinberg responded:

December 7, 1996

Dear Speaker Bustamante:

Thank you for your letter, which I shall proudly frame, because your hasty removal of me is an honor, ample testimony to my impact and to the threat I would continue to pose to the entrenched special interests that pressured you. In your letter, you alluded to "discussions with a great number of people"; surely, you did not seek the views of the beleaguered homeowners who, at least in the window of opportunity we provided this year, finally obtained long overdue relief from the extortion routinely visited upon them by the Coastal Commission.

Given the major problems of crime, education, and welfare reform facing California, I am surprised that your *first* order of business is to replace me on the California Coastal Commission. Does this mean that you condone the Coastal Commission's extraordinary abuse of power, its legendary violations of standards of due process and fairness, and its egregiously repressive and often brutal treatment of property owners?

The Coastal Commission needs major overhaul and significant reform; these issues should have little to do with political partisanship. The Coastal Commission, which has engaged in the most brazen form of power

politics, has been reprimanded by the Supreme Court and lower courts. Even so, the trains do not run on time: the meetings are unnecessarily long, the agenda disjointed; the minutes from the first meeting I attended six months ago still have not been prepared. For example, the Coastal Commission's reliance on Wang machines rather than personal computers reinforces that perception and reality here coincide: the Commission not only operates *immorally*, it operated *inefficiently*. Indeed, the Coastal Commission has spent more time on the width of a driveway for an individual homeowner living miles from the coastline than on oil spills that truly affect the environment.

It is a tribute to Assembly Speaker Curt Pringle that he spent months studying the Coastal Commission before deciding to appoint me and others to bring some sanity and balance to a governmental body that has come to symbolize the worst excesses of government. Make no mistake about it: by removing me so quickly, your lack of deliberation has sent the wrong signal to the people of California, that it's back to Willie Brown's politics-as-usual approach. Your precipitous action in *removing* me, instead of *replacing* me, is neither prudent nor responsible, and highlights the obvious: your priority is crude political payback, not sound public policy.

Of course, you have the prerogative to appoint a successor, and I still hope it will be a moderate, and not someone dictated by Assemblywoman Sheila Kuehl, Assemblyman Wally Knox or other members of your party who conditioned their support of you as Speaker on your aggressively removing from the Coastal Commission its most outspoken and independent voice for reform. Furthermore, it would be a tragedy if you appoint a retired or defeated politician to succeed me or Patricia Randa in the two "public" spots.

THE FACT is the four appointees of Senator Lockyer vote in *lock-step*. They lack any sense of humility for the responsibility they have, as they would trample with impunity on the rights of their fellow citizens. For them, the environment has become a secular religion. They are intoxicated with power, and it shows in the imperial manner in which they treat people who come before the Commission in what often resembles an inquisition, complete with neighbor testifying against neighbor, and with environmental groupies, often recruited by the staff from central casting. Senator Lockyer's appointees have followed a tradition in interpreting the Coastal Act in extreme and ridiculous ways that are at odds with reality and common sense. They

have regularly engaged in *ex parte* communications with lobbyists, as they take direction from self-described exclusive guardians of the "public interest."

WILL YOU in you appointments seek to provide some measure of moderation? Or will you merely confirm the dictates of the professional hangers-on, whose mission in life is to validate highly questionable public policy and sometimes ruthless behavior? At the Coastal Commission, will the inmates continue to control the asylum, as they make a mockery of fundamental rights? In your letter to me, you stated, "I have decided to exercise the power given to me by the Public Resources Code and put my own stamp on the future of the Coastal Commission." Your recent actions suggest that your "stamp" is a *rubber* stamp.

It would be refreshing if you would demonstrate leadership and vision and appoint a *victim* of the Coastal Commission, someone who has firsthand knowledge of the excesses of the Commission, someone who could truly represent the people. I still hope, perhaps naively, that you will appoint high-minded people of substance who will carry on what the Pringle appointees sought in our agenda of openness and fairness. The financial and performance audits we begun must be completed. The ombudsman program for homeowners and small landowners must be put in place. The many reforms I outlined at my first meeting must be implemented or the Coastal Commission will continue to degenerate.

There are many people who work for, and serve on, the Coastal Commission, who simply cannot, to paraphrase a saying, see the beach from the sand. They believe their definition of a noble end can justify tainted means. They have a vested ideological interest in justifying what they have done, and they have little or even zero tolerance for dissension. I hope that you do not succumb to the political pressure from these people and from the elitist left. Instead, I hope that you will appoint members who represent all Californians.

In the end, all your talk of moderation will be measured against your actions. Are you a captive of the past?

Sincerely,
Arnold Steinberg

(Editor's note: On December 9, Bustamante filled Steinberg's "public" seat on the Coastal Commission by appointing a 16-year Democrat member of the Assembly, Bay Area liberal Bob Campbell, who had been forced out of office by term limits only a few weeks earlier.)

What went Wrong?



And where to from here?

CPR's panel of veteran political observers discuss why California Republicans fared so much worse than predicted

**Tim Ferguson, John Lewis, Ray Haynes, Brian Kennedy,
Mike Antonucci, and the Editors**

Tim Ferguson

Business Issues Writer

OTHER THAN disenfranchising unmarried women, Medicare recipients and "people of color," what's a Republican to do?

The voting blocs that hurt the GOP nationally wounded it even more grievously here, but universal suffrage isn't going away, so the Party is left looking for other answers. One seems easy: the people who ran the statewide campaigns ought not to be given those reins again. Is it necessary to name names? Now, putting aside the tactical errors of 1996 — the misspent war chest, the overreliance on consultants and their polls, the timidity in adopting issues such as the CCRI at the legislative level — what strategic paths might repair the damage?

The first thing to confront is the dashed hope of term limits in leveling the candidate field. The limits are still a great thing, but they haven't resulted in appreciably fewer skilled professional politicians carrying the Democrat banner or more standout amateurs representing the GOP.

So candidate grooming is something the state Party

is going to need to give more attention. This also means discouraging nincompoops from running. Were there no state government sinecures for Mr. Hoge and Ms. Boland that could have kept them off the ballot? Could the vaunted Orange County GOP machine not have maneuvered the bombastic Bob Dornan into honoring his 1994 pledge not to seek another term? (In the event, Loretta Sanchez — or more likely, Loretta Brixey — might have been the new *Republican* member of the House.)

Then there are the lobbies. Smart GOP operatives haven't been too skilled at penetrating the Third House. In California, several of the big PACs remain under the direction of Willie Brown alums. In Washington D.C., they are too often clueless. Take the NRA's forcing a gun-control vote it knew it would lose in order to get congressmen on the record: unfortunately, one of them was Bill Baker, who lost his seat as a result of carrying the NRA's water. These are cushy jobs those lobbyists have. Surely some of the best and brightest Republicans might aspire to them.

Where the GOP still has leverage, it might want to talk turkey with the aerospace giants. The Party's office holders have fed billions of taxpayer dollars to these

companies for years. Now that swords are being turned into plowshares (or nonpolluting buses, or whatever) the military-industrial complex has newfound friends in the likes of Barbara Boxer. Somebody might tell the Northrop/Grummans of the world: for every dollar that goes to a Boxer, you lose 10 in contracts.

As to issues, the Party ought to weigh the overwhelming votes against prison bonds and for marijuana decriminalization (even in Orange County!) and reconsider its "cops 'r us" state of mind. Three strikes might be a winner, but not if it means high taxes to pay for inmates doing time for inconsequential crimes. And never forget: what folks want most from government, even more than all the subsidies, is to be left

alone in their private lives.

Finally, how to avoid a generation of anti-GOP immigrants while also taking noncitizens (and hopefully, some citizens) off the dole? New state chairman Mike Schroeder is sensitive to this, and is inclined to push help-up-the-ladder programs that don't discriminate. An opportunity society is probably the right approach, but watch your wallet. Teaming with legal-aid groups like Citizens for Justice to break down restrictions on minority enterprise is a cheaper way. But are Republicans ready to take on local zoning codes?

Solve a few of those minor problems, and then you can figure out what you're going to do about divorce, old age and, oh yeah, the CTA.

Letter to the Assembly Republican Leader

A Word On Finding the Road Back to Victory

Is it my place to say 'good' to the State's sickness? Can I help my King by giving him lies when he asks for truth? Will you help England by populating her with liars?

— Sir Thomas More
A Man For All Seasons

THIS DISCUSSION would have been richer had you contributed — I'm sorry you chose not to do so. As the Republican leader who finally vanquished Willie Brown's effort to overthrow the voters' Assembly mandate of 1994 and who subsequently shepherded through many long-needed reforms of that body and much good legislation for the people, you have earned the deep respect and gratitude of millions of Californians, especially those who most treasure their freedom.

Now, as then, a rare opportunity to lead has been given you following the Republicans' unexpected loss of the Assembly. And it is rarer still because this opportunity has come to *you*, a man who has already proven he knows *where* to

lead. Such exceptional conjunctions of timing, wisdom, and good luck are always fleeting. Seize and use it now or it will be lost, spinning off in time. The Democrats have already shown the desperate straits into which they will take California: by entrusting many of the Assembly's most powerful positions to some of this planet's most dangerously misguided individuals, by quickly smothering any hint of reform at the Coastal Commission, and in many other ways that I am sure you know better than most of us.

How did this happen, when what was expected was the opposite? A football team that enters a game as the favorite only to find itself, at the end of the first half, having been manhandled by its supposedly weaker opponent will, if its leaders are at all prudent, use half-time to analyze the situation carefully and to make corrections. Obviously, when the Party of free enterprise, limited government, self-reliance, and individual freedom is whipped in a (mostly) fair election by a group of socialists who count

among their special enemies the family, religion, and the rule of law, something is seriously wrong with the loser's game plan.

But when I invited your thoughts on this, I was told that I must first prune the list of participants in this discussion to exclude someone whose views you evidently believe should not be heard, or at least not given the dignity of appearing alongside yours. The chief reason, I was told, was that this person, who has publicly implied that mistakes made under your leadership contributed to the defeat, had no experience running campaigns and therefore could have nothing constructive to add and that, by the way, he was just a little ... expletive.

ANSWERED THAT, if he were wrong, then plainly the thing to do was to refute him with argument and evidence, man to man. To that suggestion, I received no direct answer, presumably because I had already received my answer. Anyway, your office never called back, so evidently you have decided

Hon. John Lewis

Vice-Chairman, Senate Rules

I THINK it's really rather simple: that it was just a, quote, bad year for Republicans in California, and I wouldn't try to read too much into the elections other than that. On the national level, Bill Clinton won the rest of the country by about 8 percent of the vote. In California, he carried the state by about 13 percent of the vote. Right now the economy is better than it was four years ago. Rightly or wrongly, a big enough percentage of the American electorate is willing to give Bill Clinton the credit so that it swung

the election in that direction.

A lot of it has to do with early projections of Dole losing, and in particular the mistake of the accidental early concession. The volunteers and phone bank participants are saying that after that they noticed a huge increase in people all of a sudden that were voluntarily saying, "Why should I go vote? The election's already over." And I think that, in large part, is demonstrated by how much better Clinton did in California than he did in the rest of the country. That fact, in and of itself, cost us, at least in my thinking, a minimum of three seats in the Assembly. We lost the Berryhill race and the Geranios race — the Modesto, and the Burbank-Glendale seats — by, what?, 100 votes, 150 votes

the best way to deal with honest differences of opinion is to sneer and try to silence them.

If I may say so, this is shortsighted. First of all, I have heard the Republican ground game criticized exactly in these terms by several individuals possessing campaign experience at least as lengthy and varied as your own or that of any member of your staff. Indeed — they go further, saying that funds were misdirected in Assembly races, that Republican base districts were not locked down and therefore some were lost that could have been won. Anyway, it does not require a grizzled veteran to recognize that when Democrats out-hustle Republicans in such categories as Get-Out-the-Vote and absentee voter drill, and elections are lost by small margins, that this is an area that might have given us victory had it been better handled.

More importantly, now is the time, looking forward to 1998, to address any deficit that exists here or in other regards. Now is the time to gather loyal Republican leaders, men and women in a position not only to see but to help close any gaps in the game plan, to sort through what went wrong and set about making it right.

Most importantly, it is essential to remember that the loyalty required above all is to the good of the state of California and to the truth, not a false, groveling "loyalty" that pretends all is well whether it is or not. The last thing you or any leader needs, especially now, are sycophants, flatterers, and yes-men.

YET THAT is about all you can expect to elicit when you set the sort of course you have chosen with regard to the discussion held here. Judging from remarks I have heard the last few days from many people around the state, it appears you have chosen the same course with regard to more or less *all* thinking, or at least talking, about the election. It is one thing to argue that what happened was all Bob Dole's fault, an opinion that leaves me dubious, but which is certainly defensible. It is something else — something unwise — to try to blackball anyone who says anything different, yet that seems to be what you are trying to do.

The mood of many Republicans in and around the Capitol already shows signs reminiscent of the Doris Allen days, when she was squeezing people in an effort to

gain their support. Your staff, judging from what I heard on the telephone, is adopting a distinctly Willsonian tone, intolerant of loyalty to anything more or larger than the leader, whithersoever he leans today.

But poor, dumb Doris had no other lever to use, and the governor, well, he seems to like operating this way. For you, it is not necessary. You have given yourself to a cause larger than yourself, and people respect you for it. They are prepared to follow if you lead. But you must trust those that are true to the cause you serve and, above all, you must remain true to it yourself. Any other course will divide your following and waste your opportunity, delivering up to you the likes of Paul Horcher, not true Republicans.

Your true friends will give you their true opinions. Seek them out. The alternative to that is unworthy of the man who became the first Republican Speaker in a quarter century *precisely* by defying those who said: think first of yourself; forget the cause. The way to victory is the same today.

— John Kurzweil, editor
California Political Review

each? And then Lambros — the Downey seat — by less than 2,000 votes.

The Republican Party has not had a great Get-Out-the-Vote effort for 25 years, or 20 years at least. What happened? There just does not seem to be the interest or the fire in the belly. There are just not as many people willing to go knock on doors today as there were years ago.

We need candidates that appeal to rank and file Republicans, people they can get excited about. I think there is a void in charismatic Republican leadership right now. Where is the new Ronald Reagan right now? I don't see one.

Hon. Ray Haynes

Vice Chairman, State Senate Health and Human Services Committee

AS ELECTION day came to a close, Democrats were still turning out because they thought they had a chance to get rid of the Republican Congress. Hatred of Clinton was pulling Republicans out early in the day, but once they knew Dole had lost, that hatred had no vent. They got angry and frustrated and just quit showing up, except in places where we had a focused volunteer effort to turn people out. Where we had that, with the local candidate running a good campaign and the statewide people involved, we won. There is a synergism when the statewide people and the local people work together. Bruce McPherson (15th state Senate District) and Peter Frusetta (28th AD) are the best examples of this. Everybody on earth was focused on them.

But compare McPherson with Richard Rainey (7th state Senate District) and Bill Baker (10th Congressional District). There we almost lost Dick Rainey, almost lost Lynn Leach (15th AD), and *did* lose Bill Baker. McPherson and Rainey were similar candidates, yet Rainey almost lost what ought to be a relatively easy race while McPherson won a seat we should have lost. McPherson had a lot of people on election day turning out his voters. In Rainey's district — the old Boatwright seat — Democrats spent a lot more money and had all of their union folks out working hard. We were just assuming our candidates would come across the line.

On the Assembly side, two seats we knew we had to win, Frusetta and Robert Prenter (30th AD), were both won, but we lost the more strongly Republican Jim Rogan seat with John Geranios (43rd AD). The Geranios and Richard Lambros (56th AD, won by Democrat

Sally Havice) seats are examples of where we've got to hustle because they lean our way. We were focusing on other races, not a bad idea in my opinion, but the one thing that didn't happen was making sure of the races we had to win. Also, in '94, we had the interest with Proposition 187 and all the Republicans running in favor of 187. This year we might have had a tool to turn out Republicans in 209, but everybody was afraid of being branded racist or turning away minorities and they ran away from it. The biggest mistake we made tactically was on 209.

Lastly, we spent two years abusing our prolife constituency. There was the open battle over the platform where Dole never really took a position publicly, saying: I stand out in favor of prolife issues. And then comes the election, and we say: will you please walk for us? In my district, I got a resounding "no, we're not going to walk for Dole." These prolife constituents will fall on swords for a candidate that believes in their position, and they're worth millions to us in terms of volunteers. Yet we stomp on them on a fairly regular basis.

Brian Kennedy

Director, The Claremont Institute's Golden State Center

I THINK the problem of the election was certainly low turnout. The question is whether that is merely a phenomenon or a function of how the campaign was conducted. Probably it was the latter. Republicans had failed on the presidential level to energize voters with Dole, and for state offices there wasn't the organizational apparatus to get people out to vote. People were cynical about Dole's tax cut message and Clinton pretty much ran on conservative issues. Proposition 209, which was very popular and would have inspired a lot of voters to come to the polls, was not really an issue for very many individual Republican candidates or for the California Republican Party who ran some confusing ads on it late in the race. Here, I think, a real opportunity was squandered for Republicans to talk about their principles, the principles of Lincoln and the Founders, that 209 so well embodied.

There are also some deeper problems. The political parties, both of them, are relatively weak in that they don't drive the political agenda of the state or control much of what we might call the political machine which gets people out to vote. The message and the campaign then is carried out mostly by individuals most of whom do not act in concert. As such, some campaigns were run better than others this year. The

Democrats have the advantage of the all the money and organizational resources put at their disposal by the public employees unions. Because of this you have to be very good at the mechanics of campaigns if you are going to be at all successful. In the end, however, that cannot be enough to win on a regular basis as Republicans found this year.

Republicans, if they are going to be successful, are going to have to get back to talking about their principles again and getting that message out more effectively to the voters. I think they have come to rely too heavily on one medium, that being political mail at election time, and have forgotten, many of them, the kind of on-going work that needs to be done back in their districts to teach citizens about what is wrong with our government.

Mike Antonucci
Managing Editor,
Inside California

THE OLD canard that politics makes strange bedfellows has never been better illustrated than by the "bedfellows" fighting against the passage of Proposition 208. Voters passed the campaign fund-raising reform initiative by a margin of 61 to 39 percent. Now, groups as irreconcilable as the California Teachers Association (CTA) and the California Pro Life Council are seeking various methods to challenge the new law, which is to become effective January 1, 1997.

Proposition 208 covers a lot of ground, but the provisions that have political operations in an uproar concern limits — on contributions, on spending, and on time. Contributions from any individual, PAC, corporation, or union are limited to: \$250 per election for Assembly or Senate and \$500 for statewide office. The contribution limits double if the candidate accepts voluntary spending limits of \$200,000 for an Assembly race (\$100,000 for a primary), \$400,000 for the Senate (\$200,000 primary), \$2 million for a statewide office (\$1 million primary) and \$8 million for governor (\$4 million primary).

Contributors can give no more than \$5,000 per year to political parties and no entity can give more than \$25,000 to all candidates in any two-year period. Con-

tributions from sub-divisions, affiliates, and spin-offs count toward the organization's total.

It's the last stipulation that is giving CTA the most heartburn. In a board meeting after the election, one CTA director opined: "We may be seeing an entire restructuring of our Association for Better Citizenship [CTA's political action committee]. It is a certainty that it will not continue in its present form."

The effect of 208 on CTA activities *could* be substantial. In the 1993-94 election cycle, CTA donated \$2.1 million to legislative and statewide candidates. Under 208, it can give no more than \$25,000.

Proposition 208 hurts candidates — both liberal and conservative — who rely on a few big donors. Elections will be won by the candidate who can put together the largest list of small donors. But the supporters of 208 are kidding themselves if they think this means more power to the average citizen.

In San Francisco, contributions to mayoral candidates are limited to a total of \$750. Here is an excerpt from the list of those who contributed to Willie Brown's

**Republicans got angry
 and frustrated and
 just quit showing up,
 except in places where
 we had a focused
 volunteer effort to
 turn people out.**

— Ray Haynes

1995 campaign:

- John Hein, Assoc. Exec. Dir., CA Teachers Assn.: \$750
- CA Teachers Assn. for Better Citizenship: \$500
- Ned K. Hopkins, Assoc. Exec. Director, CA Teachers Assn.: \$500
- Edward B. Hogenson, Assistant Executive Director, CA Teachers Assn.: \$500
- Richard L. Odgers, Assistant Executive Director, CA Teachers Assn.: \$500
- Carolyn E. Doggett, State Executive, CA Teachers Assn.: \$500
- A. Trigueiro, Gov't Relations, CA Teachers Assn.: \$350
- Beverly Tucker, Attorney, CA Teachers Association: \$300
- Mary Lois Tinson, Teacher, LAUSD [actually, CTA president]: \$100

The idea is to get all those activists to donate the limit as individuals. Organizations with big bureaucracies and ideological monopolies (like CTA) may relatively benefit under the new system. There is no

doubt CTA would have preferred keeping the old system, but the lack of internal political opposition enables union leaders to adjust quickly to the new environment. While everyone is getting comfortable with the new rules, CTA may get a big jump on the 1998 election cycle. Couple that with a Democrat chairman of the Assembly Education Committee and it may seem as if Willie days are here again.

The Editors

California Political Review

"HELMS HELD His Own With Soccer Moms, While Women Walloped Weld," read the headline of a post-election analysis in *Human Events*. The national conservative newspaper drove home the point that media pundits and other left-leaning parties had it wrong in suggesting that principled Republican candidates who clung to conservative beliefs lost votes because of their convictions. And in California? A detailed analysis is difficult, absent specific exit polling figures available on a national scale, but some conclusions can be reached.

Moderate Republicans were clobbered statewide. In the first Assembly District, Republican Marge Handley, who supports homosexual marriage and legal abortion and opposes parental choice in education, lost to Democrat Virginia Strom Martin by nearly 18,000 votes — even with Natural Law candidate Harry Wrench siphoning off some 8,000 of the district's most loony voters. In the 78th, long-time liberal Republican Tricia Hunter lost by more than 4,000 votes. Former Assemblywoman Hunter, who used to display an abortion tool on her desk in Sacramento, was one of the best-funded Republican candidates in California yet still lost in a district that leans Republican in registration.

Meanwhile California's version of Jesse Helms, rock-ribbed conservative Larry Bowler, won a tight race in the 10th A.D. despite a well-funded eleventh-hour funding influx to Democrat Matt Morretti. In the 15th, which borders the San Francisco Bay area, conservative Lynn Leach had the volunteers, organization, and conservative principles to eke out a win within sight of the state's most liberal bastion. In San Diego's 77th AD, CTA nemesis and unapologetic Reaganite Steve Baldwin handily won the second of three consecutive pitched battles for the 77th seat, which is just down the road from where Hunter was so thoroughly trounced.

Conservatives did lose in contested races, notably state Senate candidate Phil Hawkins and, from the

same area, 54th AD candidate Richard Lambros. Both Lambros and Hawkins were represented by the McNally-Temple consulting firm which has a reputation for tempering the tone of its conservative candidates. In Lambros, although the candidate supported Proposition 209, his campaign skipped the issue.

A Special Case: The Glendale/Burbank-area Races

In the 43rd AD, the liberal-Republican-losing pattern held up with carpet-bagging liberal John Geranios losing to another carpet-bagger, former union boss Democrat Scott Wildman. 43rd AD Republicans are older and conservative. Geranios, whose first move after his nomination was to address the Log Cabin Club, was so ideologically out-of-step that a cabal of local conservatives endorsed Wildman.

But plainly more was involved in this area than just Geranios's ill-suited political views, since nearby conservative stalwarts — Paula Boland in the 21st state Senate District and Bill Hoge in the 44th AD — were also losing. Several factors came into play including, but not limited to, Hoge's non-ideological personal problems and Bob Dole's weak candidacy. (Still — in 1992 — while weak candidate George Bush was writing California off, every Glendale-area Republican won re-election.)

The main reason for the Senate and Assembly losses here was that the Republican ground effort has never recovered from the departure of former Assemblyman Pat Nolan. In 1994, when Jim Rogan won Nolan's Glendale seat in the special election, he kept most of Nolan's staff, which worked to sustain many of Nolan's programs.

But in this year's general election, most of those old campaign people were gone and a well-oiled political machine came apart in a district where Republican registration has been steadily slipping. (Also, Rogan, running in 27th Congressional District, already enjoyed strong Republican support in the 43rd AD portion of his congressional district, so his consultant wisely sent no mail there, instead concentrating on areas where Rogan wasn't well known. Finally, McNally-Temple, Geranios' consultants, did no absentee drill, though this is the state's oldest per-capita district.)

In summary, when the GOP presidential candidate was taking a swan dive two hours before the polls closed, candidates who clung to their conservative beliefs tended to have the volunteers to work the voters when it counted most, and voters still had a reason to go to the polls after Dole conceded. Those who ran away from Republican ideals fared poorly. CPR

The *Register* Goes Partisan in the Dornan/Sanchez Race

'Voter records don't back fraud charges,' the paper reports.
Neither do they refute them.

by Leon McKinney



THE *ORANGE County Register's* Harold Johnson came close to the truth with his opinion that Loretta Sanchez beat Bob Dornan because Sanchez worked very hard to get her voters to the polls and because of the contrast between her promises to give her district true representation and Dornan's aborted presidential run, foreign junkets, and stints as guest host on Rush Limbaugh's show. Johnson made one mistake, though: dismissing the possibility that Sanchez won through fraud.

A December 6 *Register* article stated "several key voter-fraud allegations advanced by defeated Congressman Robert K. Dornan are unsupported by voting records, according to an *Orange County Register* computer analysis of the 46th District election." Commentators up and down California and across the country, Johnson among them, have used the *Register* article to justify dismissing Dornan's charges of fraud. However, as we shall see, while a "smoking gun" has yet to emerge, there is sufficient evidence of irregularities in voter registration and voting to merit investigation.

On election night, Dornan was ahead, barely, by 233 votes. Because in four contested primaries and nine general elections his vote margin had increased substantially as absentee ballots were counted — as they do for almost all Republican candidates — he confidently declared victory. Yet after the partial count of absentee ballots on November 11, Sanchez had moved ahead by 929 votes; after the final count of absentee and provisional ballots on November 22, Sanchez won by 984 votes with 47,964 votes to Dornan's 46,980.

A shocked Dornan immediately declared fraud, saying in his formal request for an investigation by California Secretary of State Bill Jones that: "non-citizens were registered to vote in an organized campaign"; "open boxes of ballots [were] handled without prejudice at the main registrar's office"; "persons were dou-

ble-voting"; and "walk-in absentee ballots were brought in to precinct 68098 at such a rate that it overwhelmed the precinct inspector and her three clerks."

The *Register* reported that Dornan's attorney, Michael Schroeder, California Republican Party vice-chairman, said December 5 that 412 new voters were registered in one day in one precinct — more than had ever voted from that precinct before — and that more than 90 percent of those persons voted. Dornan told me they were registered on October 7, the last day for eligibility to vote in November, and that 392 of these requested absentee ballots.

The December 6 *Register* article conclusions, based on a "computer analysis" of the 28,138 absentee ballots cast in this election, were: 1) "voting patterns don't support allegations that large numbers of absentee voters signed up by groups sympathetic to Sanchez cast their ballots *en masse* on election day [T]hree of every four absentee ballots, and 60 percent of the absentee ballots cast by Hispanics, were mailed before the election"; 2) "Dornan would still lose his seat by more than 500 votes even if every absentee ballot delivered by Hermandad is eventually thrown out" and "of the 906 voters registered by Hermandad, 413 used absentee ballots; 243 of those were mailed"; 3) "Another Hispanic political group, the Southwest Voter Project, signed 819 voters, but only 154 cast absentee ballots; 92 were mailed up to three weeks before the election"; 4) They disputed Schroeder's charge, saying their computer records "show that the biggest one-day gain in any precinct in the district was 79 voters in precinct 2375. A total of 431 voters were registered in the precinct during the entire year.

"Dornan's allegations have focused on Hispanic immigrants. But most of those who cast absentee ballots were born in the United States, according to voter records. Of the immigrants who cast absentee ballots, Vietnamese — largely Dornan supporters — outnumbered Hispanics, 3,568 to 2,444."

This *Register* "analysis," of course, proves nothing except, as the reporters wrote in their article's lead sen-

CPR Contributing Editor Leon McKinney writes political commentary for the Orange County Register.

tence, that “several key voter-fraud allegations advanced by defeated Congressman Robert K. Dornan are unsupported by voting records” So what? When did Dornan say he was going to prove his charges by looking into voting records? Do these reporters think Dornan expected to find voters admitting foreign citizenships or bogus names or addresses on their registration papers? There’s no requirement of proof of what’s declared on voter registration forms. Dornan is saying that maybe some people lied on those forms. Very unpleasant, I know, but someone should explain to the *Register*’s crack investigative staff, going slowly so as not to lose them: People lie. Even in politics they lie. It is imbecilic to imply that no voter fraud took place because, well, we looked at what the voters said when they registered, and they all said they should be voting. Of course, these folks probably also believe gun control makes bank robbers think twice about packing a pistol.

The truth is, security against voter fraud is thin at best. The government makes no effort to check a registrant’s address, place and date of birth, or anything else. As for the non-native-born absentee ballots, again, the only evidence that those immigrants are now citizens is their declaration that they are. Sometimes, it turns out that registered voters may not exist at all. For instance, 1133 North Homer Street in Anaheim in the 46th CD is a county welfare office closed almost two years ago. It is illegal to use government offices as a voter registration address. But guess what? Twenty-seven individuals listed 1133 North Homer as their residence on voter rolls as of November 5. Are these real people? If so, where do they really live?

California’s voter registration system is so flawed that the state’s official position is that at least 10 percent of registered voters should be removed from the rolls. How many of these incorrectly registered voters voted in the 46th CD?

THE *REGISTER* emphasizes that hundreds of absentee ballots were mailed, not walked, in — another straw man. Dornan’s charges do not rise or fall upon this point. In fact, it would be easier — and safer — to commit fraud through the mail than by showing up at a polling place.

The story also ignored evidence of voting irregularities Dornan described in his letter to California Secretary of State Bill Jones: “A ballot box totally opened, brought from precinct 68078, disobeying all instructions on how to shut down a precinct and secure and seal all ballots, and circumventing one of twenty-one intermediary drop-off points (to prevent 1200 precinct delivery vehicles from arriving at the registrar’s office at the same time), was walked through the front door of the registrar’s office carried by three clerks and

dumped on the main counter. Instead of senior personnel marking this unsealed box as ‘hot’ and a *prima facie* violation of election law ... [it was] contaminated further by employees taking out its contents and beginning to count it as the first precinct returns of the night.” These returns were, according to Dornan, “250 voting booth ballots, 73 walk-in absentee ballots, and 24 provisional ballots.” Dornan also claims that Orange County lawyer Rex Brady, a Republican Party election observer at the county registrar’s office on election night, gave a deposition supporting these allegations.

DORNAN’S COMPLAINT accuses the registrar’s staff of giving four different stories why the ballot box showed up in the irregular manner it did. Dornan says at first the registrar staff told him the inspector for precinct 68078 and his three clerks were “chased out” of the polling place, Our Lady of the Pillar Catholic Church in Santa Ana, because a mass was scheduled that evening, and that this did not allow them to take a preliminary count and secure the ballots. Later, they claimed it was a rosary ceremony. Dornan says he “interviewed the assistant pastor, who showed me the scheduling book for parish events” which refuted both stories. Then, Dornan says, the registrar staff said people were making noise outside, “annoying” the precinct workers, and then finally that young people were “hanging out” in the parish hall.

This smells. Specific procedures exist governing ballot security and chain of custody. Assuming the precinct team really was “chased out,” the 21 intermediate precinct ballot delivery points exist to help maintain order at the main registrar office, presumably reducing the possibility of honest mistakes as well as the opportunity for fraud. Why didn’t the precinct team go there and count and secure the ballots? And, obviously, “open ballot boxes” are a bad thing if you want to avoid ballot box stuffing. Whatever happened at the church, there’s simply no excuse for the registrar staff failing to set aside the precinct 68078 ballot box.

A ballot recount is underway (overseen by Republicans). According to a December 11 *Register* article, Michael Schroeder says “Dornan monitors have discovered 126 absentee ballots turned in on Election Day by someone other than the voter that shouldn’t have been accepted because they weren’t turned in by family members, as required by law.” Schroeder “said in some cases, the lists of voters who signed in at polling places didn’t match the number of ballots cast.” Gee.

Secretary of State Bill Jones and DA Capizzi have announced investigations. Certainly, what they turn up may not prove fraud. Then again, it might. The *Register* might have waited to announce its verdict until the facts were better known.

CPR

**Nineteenth-Century Science
Meets 'Irreducible Complexity'**

Darwin's Black Box

**Phillip E. Johnson
Professor of Law
University of California, Berkeley**

RICHARD DAWKINS began *The Blind Watchmaker*, his influential restatement of Darwinism, with the observation that "Biology is the study of complicated things that give the appearance of having been designed for a purpose." May we consider the possibility that living organisms give that appearance because they actually were designed?

Dawkins, who is virtually the defining example of an un-



A longer version of this review essay of Darwin's Black Box: The Biochemical Challenge to Evolution, by Michael J. Behe, (Free Press, 1996, 336 pages, \$25.00, cloth) appeared in the October issue of First Things. For additional essays by Phillip E. Johnson, see the Web site of Access Research Network: <http://www.arn.org/arn/>

compromising scientific materialist, meets that suggestion with the scorn he thinks it deserves. The point of evolutionary science, he says, is to explain how complex things get made from a simple start. An unevolved Designer who is presumably more complex than the things he designs just doesn't fit into that picture.

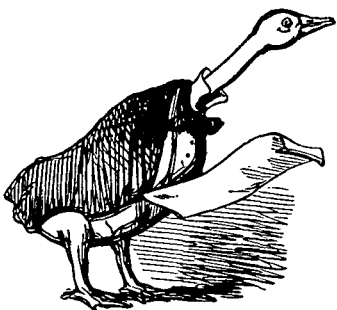
Biochemist Michael Behe answers that the blind watchmaker thesis is a relic of a nineteenth century science which lacked the understanding of biological mechanisms that recent advances in molecular biology have provided. The biologists who established the still-dominant Darwinian orthodoxy thought of the cell as an undifferentiated blob of "protoplasm." Like a child imagining he might construct an airplane out of cardboard boxes and pieces of wood, they could blithely propose materialist evolutionary scenarios for biological systems because they had no idea of how those systems actually work. The organism (and especially the cell) was to them a "black box" — a machine which does wonderful things by some mechanism nobody knows.

Behe explains that biochemists are now able to explore part of the insides of that black box, and what they find inside is "irreducible complexity." A system is irreducibly complex if it is "composed of several well-matched, interacting parts that contribute to the basic function, wherein the removal of any one of the parts causes the system to effectively cease functioning." Life at the molecular level is replete with such systems, and biochemists do not even attempt to explain how any one of them could have come into existence by the Darwinian mechanism. The result of biochemical investigation of cellular mechanisms, according to Behe, "is a loud, clear, piercing cry of 'Design!'"

For instance, do you want to know how vision might have evolved? There are well over 40 different types of eyes which, because of their fundamentally differing structure, must have evolved (whatever that means) separately. Some of these eyes are much simpler than others. All an evolutionary story-teller has to do is to start with the apparently simplest version, ignore the neural equipment that has to be present for an organism to make any use of a "photon receptor," and spin a charming tale about how a tiny primitive light-sensing cell might grow up to be a full-fledged eye. That's what Charles Darwin did in 1859, and Dawkins just repackages the same story.

Behe gives us just a bare start towards understanding what a biochemically-informed evolutionary theory has to explain:

When light first strikes the retina a photon interacts with a molecule called 11-cis retinal, which rearranges within picoseconds to *trans*-retinal. (A picosecond is about the time it takes light to travel the breadth of a single human hair.) The change in the shape of the retinal molecule forces a change in the shape of the protein, rhodopsin, to which the retinal is tightly bound. The protein's metamorphosis alters its behavior. Now called metarhodopsin II, the protein sticks to another protein, called transducin. Before bumping into metarhodopsin II, transducin had tightly bound a small molecule called GDP. But when transducin interacts with metarhodopsin II, the GDP falls off, and a molecule called GTP binds to transducin. (GTP is closely related to, but critically different from, GDP.)



Whew! There's a lot more in *that* vein from Behe, including descriptions of the cilia propulsion system in bacteria, the basic biochemistry of the immune system, and the cell's intricate internal transport system. Don't get the idea that *Darwin's Black Box* is a

difficult read, however; the technical passages are set apart from the witty and graceful main text to facilitate skimming. Readers don't have to take in all the details to see the point, which is that Darwinian storytelling simply doesn't work at the molecular level. Each biochemical system requires a stupefyingly complex set of components which affect each other in intricate ways. No component makes sense except as part of the system, and the system doesn't work unless everything is in place. That's irreducible complexity.

It is notoriously difficult to prove a negative. No matter how irreducible the complexity seems, a storyteller can always invoke concepts like "preadaptation" to bolster the materialist faith that a Darwinian solution is somewhere out there. Fervent statements of faith aren't science, however, and fact-free science doesn't (usually) get published in biochemical journals. The key point in Behe's argument is that there are *no* papers in scientific journals which set out detailed, testable scenarios of how these incredibly complex biochemical systems could be produced by Darwinian-style processes.

The Behe argument is as revolutionary for our time as Darwin's argument was for his. If true, it presages not just a change in a scientific theory, but an overthrow of the worldview that has dominated intellectual life ever since the triumph of Darwinism, the metaphysical doctrine of scientific materialism or naturalism. A lot is at stake, and not just in science.

Darwinism: Science or Philosophy?

Biochemists are not likely to challenge Behe in any fundamental way at the factual level. The scientific way to refute the irreducible complexity thesis is to publish the papers detailing how the complex biochemical systems could have evolved, and the scientists already would have done that if they could. The controversy will not be over the facts but over whether Behe has gone "outside of science" by attributing irreducible complexity in biology to "design" rather than to some undiscovered material (*i.e.*, mindless) mechanism. Many scientists and philosophers think that a dedication to materialism is the defining characteristic of science.

Their argument is that an *a priori* adherence to materialism is necessary to protect the very existence of science. If design in biology is real, then the Designer also might be real, and scientific materialists contemplate this possibility (if at all) with outright panic. Science will come to a screeching halt, they insist, because everybody will stop doing experiments and just attribute all phenomena to the inscrutable will of God.

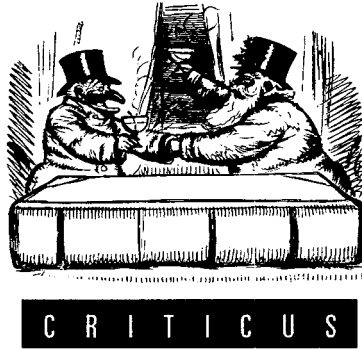
Nonsense. On the contrary, the concept that the universe is the product of a rational mind provides a far better metaphysical basis for scientific rationality than the competing concept that everything in the universe (including our minds) is ultimately based in the mindless movements of matter. Perhaps materialism was a liberating philosophy when the need was to escape from dogmas of religion, but today materialism itself is the dogma from which the mind needs to escape. A rule that materialism should be professed *regardless of the evidence*, says Behe, is the equivalent of a rule that science may not contradict the teachings of a church. "It tries to place reality in a tidy box, but the universe will not be placed in a box."

Behe's fundamental principle is that "scientists should follow the physical evidence wherever it leads, with no artificial restrictions." Science has come as far as it has because scientists of the past were willing to describe the universe as it really is, rather than as the prejudices current in their times would have preferred it to be. The question is whether today's scientists have lost their nerve.



CPR

ARTS & CULTURE



The Unpleasantness at Carlos Place

BY G. B. TENNYSON

INDEFATIGABLY PURSUING culture, as is his wont and indeed vocation, and joining to that pursuit an informal fact-finding mission prompted by Editor Scalawag to ascertain the British response to the American election (answer: rather like the American response to the American election, a weary hohum), Criticus found himself in the late autumn in London. He had first paid his respects to the great Owen Barfield down in Sussex on the occasion of his, yes, 98th birthday, and then had made his way to London. As one approaches the year's midnight the sun seems to go down even before it comes up, but that's doubtless an illusion created by rain and fog and high temperatures in the mid-forties. Withal, it invigorates the torpid Californian.

Unburdened as the sceptered isle is by any Thanksgiving festivities and having already dispatched their pennies for the Guy on the Fifth of November, and having solemnly and movingly honored their war dead on Remembrance Sunday (this year the 10th of November) and again the next day with the revived nation-wide two minutes of silence at the eleventh hour of the eleventh day of the eleventh month, London relieves the annual autumn gloom by lighting up smartly for Christmas. Regent Street and Oxford Street were festooned with lights reaching across the streets from building to building, one such garland this year heralding the upcoming 100th anniversary (in 1997) of the

birth of Enid Blyton by giving her name and dates in lights athwart the north end of Regent Street. (Can one conceive of New York or Chicago lighting up at Christmas time to honor a writer of politically incorrect children's books?) The department stores had their Christmas windows well in hand by the beginning of November, though here and there a whiff of decadence slithered itself in, most notably at Liberty which featured elaborate, three-dimensional displays of Christmas revellers that appeared to have been inspired by the most immoderate of George Grosz's Weimar Republic era drawings satirizing painted floozies and corpulent financiers frolicking in swinish excess midst tables overladen with food and drink, making even the most Dickensian depictions of Christmas cheer look like Shakers at prayer. Some Bah-Humbug of a window dresser must have slipped this style past any Mrs. Grundy in the display department, and then chuckled as the occasional newspaper ran photos of the oddity. It was grotesque but brilliantly executed.

FOR THE most part, however, tradition prevailed. Even better, Criticus kept finding his own insights and prejudices confirmed, which was most gratifying because most unexpected. Indeed, Criticus goes through life with the conviction that his is that voice crying in the wilderness and that most occasions do inform against him. Imagine his delight, then, when he saw that trendy opinion — reviewers, columnists, feature writers — had discovered the joys of the obituary. Hugh Massingberd, celebrated

G.B. Tennyson occasionally dispenses his wit and wisdom as Professor of English at UCLA. He specializes in Victorian literature and in the writings of the Oxford Inklings.

in these pages in the previous number for his *Book of Obituaries* had just come forth with a new collection of same, this one concentrating on "heroes and adventurers." It was being given the full-press press, as it were, and therewith bringing renewed, or sometimes simply new, attention to the original collection as well. Criticus had been ahead of the curve. Most gratifying.

THE NEXT such pleasure was when Criticus read in the papers that the grave of Jim Morrison in Père Lachaise Cemetery in Paris was very likely to be closed down, or more accurately, dug up, in a few years' time. As Constant Readers will recall, in the same piece that drew attention to the obituary as a literary form, Criticus remembered an earlier visit to the famous Parisian burial ground in the days before Jim Morrison came to rest there, and our wise Criticus reflected on the curious practice, provoked by space constraints, of renting out burial plots for a term of years. He even speculated on whether it was still being done. The answer is yes. Morrison's ground seems to have been rented for a period of thirty years, and the time will be up in 2001, so the cemetery authorities are planning to disinter the remains and pack them off to — where else? Southern California where the surviving family lives. Of course there is controversy because of the presumed loss of tourist money that it is believed pilgrims to the Morrison shrine bring in and which will now go to a cemetery nearer you, dear readers. On the other hand, those same pilgrims make rather a mess of things in Père Lachaise, as they bring their drugs with them and light up or shoot up at gravesite as a form of homage. They also make noise, which they call music, they scrawl graffiti, and they leave other unwelcome signs of their presence. We can now await the struggle in the French soul between greed for money and distaste for unwashed Morrisonians. My proposal: disinter and cast out Morrison and set up a tablet in praise of the art of the obituary.

With two confirmations of his wit and wisdom Criticus was now beginning to feel quite pleased with himself. But more was to come. Criticus decided to take advantage of an arrangement through his long-distance provider whereby he could avoid excessively high tele-

phone charges and still get onto the American telephone system and check his home answering machine. All went well up to the point at which he had to enter his PIN number. Since he knew that "number" only as

a word, having no head for numbers, he suddenly realized that he could not punch it in because British telephone dials no longer contain letters. As the line hung in limbo, Criticus tried to reconstruct the pattern of numbers on the American telephone. "Now, let's see. There's nothing on the number One. Is that right? And there's at least one letter dropped, isn't there?" It's easy enough when you are looking at the standard phone dial, but not so easy when you're not. Criticus tried to visualize the pattern and to project the appropriate letters onto the bald numbers staring back at him. Alas, the process was too slow and the line went dead. I wonder if I shall get a bill for a call anyway.

But the bright side was that it only confirmed what Criticus had written in these pages only a month or so before (*CPR*, September/October 1996) about the desirability of letters on the phone dial and how they could

be turned to advantage in advertising and other ways. O prescient Criticus! You may not be able to call home, but you at least foresaw the need to restore the *status quo ante*. If only you had had the wit to memorize your PIN as numbers or even to bring a copy of the letter-number correspondences with you. Never mind. Being right about three things in as many days was heady wine and enough to send your Culture Vulture off to the theatre to see the current rage of the West End, a play called *Art*.

ARTIS is a translation of a French play by a woman named Yasmina Reza. It enjoyed great success in Paris and is now packing them in (literally: they are selling standing room) in London. The play features only three performers, but two of them are considerable stars — Albert Finney and Tom Courtenay — and the third — Ken Stott — has been hailed as a star-to-be on the basis of his performance in this play. In Criticus's view all this sound and fury are quite misplaced. *Art* is supposed to be a play that treats the troubling question of what modern art is



**We can now await
the struggle in the
French soul between
greed for money
and distaste for
unwashed
Morrisonians.**

really about at the same time that it uses that question to reveal, disrupt, and more or less finally restore the friendship of three men. It all occurs without an interval or change of stage setting. Since the set is as minimal as the totally flat white modern painting that provokes the whole situation, everything must be carried by the performers. But there is really nothing to carry. It is a tiresome play performed tiresomely as a sequence of star turns.

SO, HAD Criticus struck out on this one? Not a bit of it. His dissentient voice on the current rage played very well at dinner, and on top of it, it turned out that the estimable theatre critic Sheridan Morley (son of Robert, for those of you who remember that prince of players) thought as little of *Art* as Criticus and for the same reasons. He had dismissed it as pretentious twaddle in his review. Good enough for me. Criticus was on a roll. Where would his next triumph lie?

It looked as though that next stroke would be a fine dinner at a fine restaurant, for Criticus had been invited out by a sophisticated and worldly English couple who had just returned from years in Hong Kong (no reason to ask why they returned) and had set up house on the south coast of England at picture-postcard Lymington in yachting country, while also maintaining a *pied-à-terre* in fashionable St. John's Wood in London. When I told them that a mutual friend of ours was in town to see me, they graciously invited him to join us to make a foursome. Considering that the Prime Minister had but lately read *Time* magazine and was trumpeting forth its claim that London was once again, as in the '60s, a happening place and indeed *the* place to be (which in my view was right for the wrong reasons, yet reassuring to an incumbent politician eager to take credit for anything positive whether he caused it or not), Criticus determined that he should wear something more happening than a conventional shirt, tie, and jacket. So he betook himself to Harrods.

Having run the gauntlet of the spray-girls in men's scents and having reached the men's clothing department proper, the Critical eye was caught by a handsome display of the self-styled "world's finest men's un-

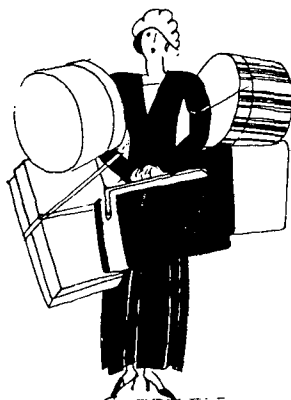
derwear" by the posh firm of Zimmerli of Switzerland. The eye came to rest upon a pair of men's white cotton boxer undershorts offered at £49.95, which at the exchange rate prevailing at that time translates into a few

pennies short of (US)\$85.00. If that's what it costs to wear something that presumably no one, or at best only a few chosen others, will see, perhaps this was not the place to buy a stylish new shirt for dinner. So it was off to one of the quite respectable but not stratospheric men's clothing shops that have outlets all over the country.

Now, the granddad collar has doubtless passed its fashion peak and appears to be headed for replacement by a curious kind of crossed-over adapted v-neck collar reminiscent of Bill-Tilden-era tennis sweaters, but even so the salesgirl persuaded me that the long-sleeved modified granddad shirt they were offering was of a distinct fashion newness, considering its elegant cuffs and large above-cuff opening secured in the middle by a discreet little button, so that the sleeve had a kind of quasi-bouffant flair. She tried but failed to persuade me that I should buy one such in this season's new color for men, namely

purple. I was afraid I might be taken for a bishop, so I settled for a rich blue ever so subtly enlivened with the palest, thin yellow stripes. Now this, I thought, not the boring white painting in the play, may really be *Art*, or at least Modern Art. Besides it cost only £29.95, a shade less than (US)\$51.00. Compared to the undershorts a very bargain, and one moreover that would be seen by all.

BY EARLY evening, attired in new shirt and navy blue jacket, Criticus descended to the lounge and bar of the New Cavendish Club where he was staying and held himself in readiness for the arrival of the rest of the dinner party. Our number four, a raffish and vastly entertaining British actor of long acquaintance — we'll call him Peter — appeared first, dressed dully in white shirt, tie, and jacket. No peacock blue, yellow striped, long sleeved, fancy-cuffed fashion shirt for him, thought a self-satisfied Criticus to himself. Then came our elegant couple — we'll call them Simon and Barbara — and we all had drinks before setting off in their car for dinner.



**She failed to persuade me
I should buy a shirt in
this season's new color for
men, namely purple.
I was afraid I might
be taken for a bishop.**

Criticus was so busy admiring the gleaming new Jaguar XJ6 Executive which we were ushered into that the half-overheard murmurs about location with mention of Grosvenor Square and Carlos Place rang only the most distant bell. I had assumed we would go to an agreeable, quiet restaurant in Kensington or Knightsbridge, but in short order we pulled up in front of — the Connaught Hotel. Of course, went the bell again but no longer distant. As few schoolboys know, the hotel is at Carlos Place, Mayfair, WC1, hard by Grosvenor Square, and as one guidebook has it: "The Connaught is, quite simply, one of the best hotels in the world, possessing one of the finest restaurants. Grand, old-world, understated, it is favored by people accustomed to the best." So say all the other guides as well. Obviously therefore the right destination for a bedizened Criticus.

WELL, NOT quite, it turned out. The valets whisked the Jaguar away, we proceeded into the old-world elegance of the lobby and made our way to the restaurant. But what was that? A hurried, whispered conversation between the maître d' and Simon, then Simon to Barbara, then Barbara to me, with an impishly amused Peter listening in: "It seems you have to have a tie to go into the restaurant." A tie? I, in my brand-new happening shirt needed a tie? Well, yes. The rule was inflexible. "Ow-e-vaire," says youthful French assistant suddenly at my side, evidently deputed by maître d' to speak directly to me in order to spare maître the indignity of so doing, "zee gentleman may borrow one from our zupply in zee gentlemen's lounge," to which he then kindly directed me as the others proceeded into the grand dining room. There he delivered me up unto what appeared to be the only native Englishman in the establishment, a crusty, old Londoner who opened a cabinet full of ties by such as Lanvin and Dupont, each with a discreetly sewn-on label on the back that read "Connaught Hotel." Obviously they have had this problem before. The lounge attendant was quite impatient with my decision to brazen it out and make my selection by holding different ties up to what had now become the

Shirt of Shame to get a compatible color, and he saw me off as quickly as he could, reminding me to return the tie at the end of the dinner, thus implying that I may be a thief as well as a yokel.



**The army of waiters...
even contrived
to change table cloths
without somehow
disturbing anything
on the table.**

And so Criticus entered the dining room alone, incongruously wearing a borrowed tie around a granddad collar, which of course is effectively no collar at all, hence does not turn down over the tie, so it is obvious to all the beautiful people at all the beautiful tables that here is some kind of peasant who has presumed to enter the Connaught dressed as a sloven. The very obliging and even apologetic underling leads me all the way across the room to a fine table at the end where the others are seated in splendor and puts me in the one chair that has its back to the rest of the room, surely on instructions from the maître d'. In that way I am neither seen nor can I see, except for my immediate table. I am not so much in the Connaught as in Coventry.

Well, well, proud Criticus, you deserved it. We all know what pride goeth before. And we all know, or used to, that the Bible tells us that a man's pride shall bring him low and that the Litany in the Book of Common Prayer asks the Good Lord to deliver us from "pride, vainglory, and hypocrisy." Alexander Pope, surely no stranger himself to the sin of pride, knew how to admonish the world in the *Essay on Criticism*:

Of all the causes which conspire to blind
Man's erring judgment, and misguide the mind,
What the weak head with strongest bias rules,
Is pride, the never-failing vice of fools.

Quite so.

AND YET, this fool was treated kindly by the rest of the company, and by the army of waiters (all French, of course) who danced attendance upon us and even contrived to change table cloths with different courses without somehow disturbing anything on the table. Amiable bibulosity greatly mitigated the feelings of humiliation, at least until we left and the tie had to be returned to the surly

one in the gentlemen's lounge. As for the dinner itself, it was one of those nights and suppers of the gods, as Horace had it, and the Critical pen is unequal to the challenge of describing it.

One thing I am fairly certain of, however, is that the

cost for four exceeded the cost of my round trip air fare, Los Angeles-London-Los Angeles. Considering that I wasn't paying for it, I can cheerfully affirm that it was well worth it. And, as Cousin Minnie Pearl would have had it, I was proud to be there. CPR

BOOK REVIEW

GRISHAM'S LAW

BAD REASONING CREATES GOOD STORIES

BY DAVID F. FAUSTMAN

ONCE AGAIN John Grisham has reached deep into the barrel of simplistic pop-culture reasoning to create a snappy little "legal thriller" destined for the big screen. Recall the preposterous premise of his *Pelican Brief* in which shady "corporate interests" conspired to murder two Supreme Court justices who would have ruled in favor of birds rather than oil fields. In *The Runaway Jury*, Grisham now takes aim at another of the Left's favorite whipping boys, the tobacco companies. When erstwhile tobacco farmer and third-rate actor Al Gore (while nominating his cigar-smoking boss) can score big points with a maudlin attack on cigarette companies, Grisham cannot be far behind. Tobacco has been deemed the Great Satan of our time, and Ayatollah Grisham prosecutes with a vengeance. In so doing, he does great disservice to the reader's understanding of our civil justice

system. Grisham uses the same sophomoric, anti-business themes and mindless, hackneyed conventions employed in movies like *The*

The Runaway Jury

by John Grisham
Doubleday, 1996,
401 pages, \$29.95, cloth

Verdict (little guy plaintiff, Paul Newman, versus evil corporate lawyer, James Mason). Grisham's "good guys" are those who fight the tobacco companies; the "bad guys," of course, are those who defend Big Tobacco in court.

The setting is Biloxi, Mississippi, where the widow of a cigarette smoker is seeking huge damages from the tobacco companies. Our hero is a handsome young man with a fake name who follows the trial to town, and lies his way onto the jury. He proceeds to corrupt

the jury in favor of the plaintiff, while his sexy girlfriend convinces the tobacco forces to pay her \$10 million to fix the jury in *their* favor. He lies to the judge and the other jurors, sets one juror up to be dismissed, poisons another. (But, hey, what's two or three felonies when you're out to get the tobacco companies?) She takes the ten million, sells tobacco stocks short, and makes a killing when the stocks drop after a disastrous verdict. We shed no tears, of course, for those who buy her stocks and are wiped out. (But, hey, what's a little stock fraud when melodramatic vengeance is at stake?)

Any means can be justified, apparently, when the end is the ruin of the tobacco companies. ("Hopefully, one day cigarettes will be outlawed ... or the companies will not be financially able to manufacture them.") Besides, Grisham's characters tell us, the tobacco companies have been engaged in fixing juries for years. The impresario of this supposed trail of corruption, jury tampering

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and blackmail is a thoroughly despicable caricature of a fellow in the employ of Big Tobacco (a man of "tyranny and ruthlessness" with a "fat face and a sinister goatee" whose "lips parted to eat and drink, occasionally to talk, never to smile"). Grisham is absolutely shameless in failing to distinguish fact from fiction, and in trying to lead readers to believe that tobacco companies have indeed engaged in a regular pattern and practice of jury tampering. People in the real world go to jail for such things, and the fact that there has been absolutely no evidence of any such behavior in the numerous unsuccessful trials against the tobacco companies seems not to bother Grisham in the least.

The truth is, in the legal wars against the tobacco companies, it

is the *plaintiffs'* forces who have engaged in questionable tactics like paying company employees to steal documents. The plaintiffs' bar treads very close to, if not over, the ethical line in seducing state attorneys general to join the greedy *jihad* against tobacco. (California's Dan Lungren is a notable exception.)

Grisham engages in disingenuous, destructive demagoguery in decrying the fictional tactics of the defense lawyers, while ignoring the actual, odious offenses of the plaintiffs' lawyers. In real life, the potential for big money verdicts in civil suits is a natural magnet for cronyism and corruption. Texas and Alabama are notorious, well documented examples of state legal systems virtually owned by the plaintiffs' bar. In California, three

judges in San Diego, including former presiding judge Michael Greer (a celebrated darling of the liberal bench and bar), soon will be spending time in jail for being too cozy with local plaintiffs' lawyers.

The civil legal system is a mess. We are awash in stupid litigation that, at the margin, tears away at our self-respect as a society. The organized plaintiffs' bar pours millions of dollars into political campaigns to protect its franchise and perpetuate the mess. There is a *real* story here. Such a story, however, is beyond the grasp of Grisham and the current crop of writers in the legal novel *genre* whose irresponsibly trite themes, cheap shots, and too-canned movie dialogue serve no higher purpose than chewing gum for the mind. **CPR**

Are We There Yet?

B Y M A R K S . P U L L I A M

ON BALANCE, the November election was an abject defeat for California conservatives. Many explanations will be advanced: Dole's weaknesses as a candidate, his poorly-run campaign, low voter turnout, early network projections before the polls closed in the West, a double-digit gender gap, the alienation of Hispanic voters by wedge issues

like CCRI, inaccurate polling leading to misallocated resources, voter fraud facilitated by motor

Slouching Towards

Gomorra

Modern Liberalism and American Decline

by Robert H. Bork

Regan Books, 1996,

382 pages, \$25, cloth

voter, the registration of hastily-naturalized citizens, sloppy grass

roots organizations, and many more. Some or all of these explanations may be true, but the ultimate answer lies in a debauched and increasingly amoral electorate that is indifferent to matters of ethics, morality, or even — judging from the supine response to recent judicial usurpations, of which the injunction of Proposition 209 is only one example — democratic self-government. The public simply doesn't seem to care that the President is a crook, and Dole-Kemp were barely interested in bringing it up during the campaign.

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This grim assessment is the theme of Robert Bork's provocative and disturbing new book, *Slouching Towards Gomorrah*. Judge Bork, of course, is the most qualified nominee ever to be denied confirmation to the U.S. Supreme Court. Perversely, Bork was vilified by liberals in his 1987 confirmation fight for his articulate conservative views — not *despite* his impeccable credentials: renowned legal scholar, former Yale Law School professor, former U.S. Solicitor General, sitting District of Columbia Circuit judge — but *because* of them. Like Clarence Thomas, whom liberals hate because he is a conservative black, Bork was (and is) despised by the establishment elite because he committed the apostasy of espousing conservative views from within the Ivy League. Heretics are still burned at the stake.

IN *SLOUCHING*, Bork broadens the focus of his previous book, *The Tempting of America*, which was a critique of the Left's capture of our legal system. *Slouching* is a broad-based critique of our culture, or more accurately, its modern decline. He explores the appalling state of popular music (especially "rap") and movies, which are drenched with sex and violence; the debasement of the universities; the collapse of the criminal justice system; the availability of pornography and material promoting pedophilia on the Internet; and the continuing scourges of illegitimacy and abortion. Bork's thesis is that America lost its nerve in the 1960s, succumbing to the rebellion of a vast and affluent generation of youth.

This generation abandoned the traditions and institutions that had anchored American culture — re-



**Bork's thesis is that
America lost its nerve
in the 1960s,
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generation of youth.**

ligious belief, moral values, strong families, and devotion to liberty — and adopted in their place nihilism, narcissism, and hedonism. "Modern liberalism" consists of two defining characteristics: radical egalitarianism (equality of outcome) in matters of economics and politics, and radical individualism (unfettered and immediate self-gratification) in matters of culture and the arts. The former explains the Left's appetite for quotas, radical feminism, and redistribution; the latter accounts for the proliferation of obscenity, drug use, divorce, illegitimacy, and other vices.

Bork's greatest scorn is reserved for what he calls the "enforcement arm" of modern liberalism's "intel-

lectual class," the judiciary, headed by the U.S. Supreme Court. He views with appropriate horror the Court's rulings last term declaring unconstitutional Colorado's Amendment 2, which denied special rights to homosexuals — in the process dismissing Coloradans' objection to homosexuality as "irrational" — and Virginia Military Institute's same-sex admissions policy, after 157 years as an all-male military college. These decisions, which in Bork's view are totally unsupported by the text or history of the Constitution, represent nothing more than "the fiat of a majority of nine lawyers." Because these decisions are both tragically wrong and essentially unreviewable, the Court's usurpation of power has produced a "crisis of legitimacy" in our system of government.

Bork is equally concerned about the Ninth Circuit's extension of *Roe v. Wade's* amorphous "right of privacy" to recognize a constitutional right to assisted suicide. Can a constitutional right/duty of euthanasia be far behind, when the Supreme Court conjures up gibberish like this, from *Planned Parenthood v. Casey*: "At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life."

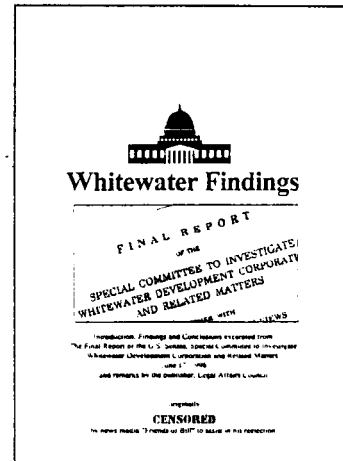
ALL OF this causes Bork to doubt the wisdom of judicial review — the right of judges to declare statutes unconstitutional — and to propose a constitutional amendment allowing Congress to override Supreme Court decisions by a simple majority vote. CPR

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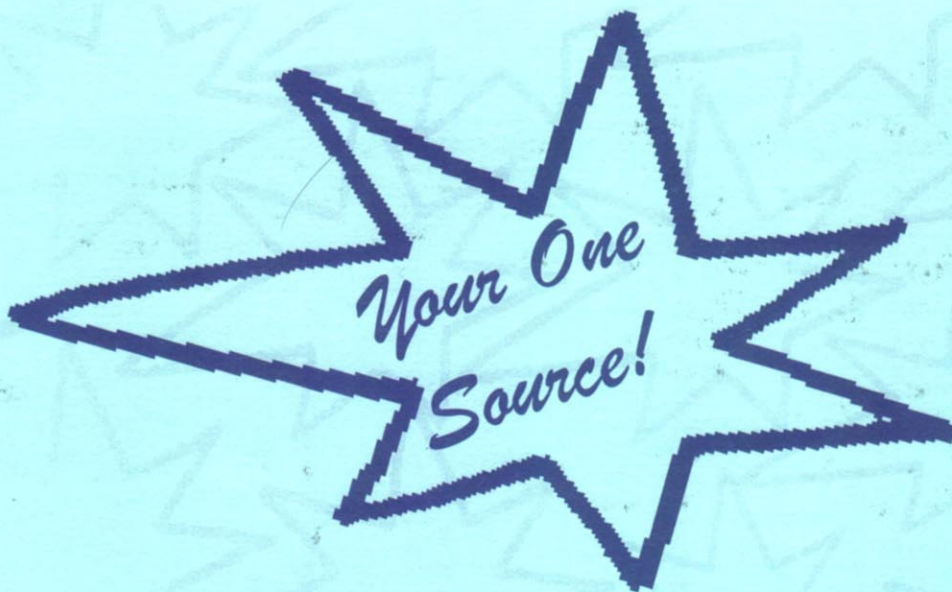
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